



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mr. Brian G. Svoboda, Esq.
Mr. Graham M. Wilson, Esq.
Perkins Coie
700 Thirteenth Street, N.W.
Suite 600
Washington, DC 20005-3960

AUG - 5 2014

RE: MUR 6856
(formerly RR 13L-42)
David Alameel for Congress
and Nadya Alameel, in her
official capacity as treasurer

Dear Messrs. Svoboda and Wilson:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission ("the Commission") became aware of information suggesting that your clients, David Alameel for Congress and Nadya Alameel in her official capacity as treasurer (the "Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On September 30, 2013, the Commission notified the Committee that it was being referred to the Commission's Office of the General Counsel for possible enforcement action under 2 U.S.C. § 437g. On July 22, 2014, the Commission found reason to believe that the Committee violated 2 U.S.C. § 434(b) with respect to the Committee's 2012 12 Day Pre-Primary and 2012 July Quarterly Reports. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a determination by the Commission as to whether there is probable cause to believe that the Committee violated the Act. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to the Committee as a way to resolve this matter at an early stage.

[illegible]

Enclosures
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENTS: David Alameel for Congress and Nadya Alameel MUR 6856
4 in her official capacity as treasurer (formerly RR 13L-42)
5

6 **I. GENERATION OF MATTER**

7 This matter was generated based on information ascertained by the Federal Election
8 Commission (the "Commission") in the normal course of carrying out its supervisory
9 responsibilities, *see* 2 U.S.C. § 437g(a)(2). The Reports Analysis Division ("RAD") referred
10 David Alameel for Congress (the "Committee") to the Office of General Counsel ("OGC") for
11 failing to disclose receipts and disbursements on its disclosure reports. In response, the
12 Committee acknowledges the reporting errors but requests that the Commission decline to open
13 an enforcement matter. Based on the available information, the Commission has determined to
14 open a matter under review ("MUR") and find reason to believe that the Committee violated
15 2 U.S.C. § 434(b) by failing to accurately disclose receipts and disbursements.

16 **II. FACTS**

17 The Committee is the principal campaign committee of David Alameel, a candidate in the
18 2012 primary for the U.S. House of Representatives in Texas's 33rd Congressional District.¹
19 The Committee filed its Statement of Organization on December 12, 2011, and timely filed its
20 2012 12 Day Pre-Primary and 2012 July Quarterly Reports. As reflected in the chart below,
21 between May 19 and October 25, 2012, the Committee filed amendments to each of these

¹ Alameel lost the 2012 primary election and seeks to terminate the Committee. *See* Letter from Brian G. Svoboda, Graham M. Wilson, Legal Counsel for the Committee, to Jeff S. Jordan, Supervisory Att'y, FEC at 1 (Dec. 6, 2013) ("Resp.").

- 1 reports, which disclosed an aggregate of \$500,000 in additional receipts, and \$844,128.55 in
2 additional disbursements not included in the original reports.²

Report	Dates of Amendments	Total Amount of Increased Receipts	Total Amount of Increased Disbursements	Total Increased Activity
2012 12 Day Pre-Primary	5/19/2012 7/02/2012 7/15/2012 10/12/2012 10/25/2012	\$500,000	\$200,317.95	\$700,317.95
2012 July Quarterly	10/12/2012 10/25/2012	N/A	\$643,810.60	\$643,810.60
	TOTAL	\$500,000	\$844,128.55	\$1,344,128.55

3
4 RAD sent the Committee two separate Requests for Additional Information ("RFAI")
5 regarding the referred reports. The first RFAI dealt only with the increased activity on the
6 Committee's July 15 amendment to the 2012 12 Day Pre-Primary Report, which added a
7 previously omitted \$500,000 loan from the candidate's personal funds. *Id.* In response, the
8 Committee filed a Miscellaneous Document ("FEC Form 99") acknowledging that the increase
9 should have been disclosed on the original report, and stating that "it was not included due to a
10 misfiling on our part." *Id.* at 4. The Committee explains that it discovered and corrected the
11 oversight after being made aware that its original report had a "negative balance." *Id.*

12 RAD sent the second RFAI to the Committee regarding the substantial increase in
13 receipts and disbursements disclosed by the Committee on amendments filed to the 2012 12 Day
14 Pre-Primary and 2012 July Quarterly Reports on October 25, 2012.³ *Id.* In response, the

² The Committee also filed three additional amendments which did not affect the receipts and disbursements.

³ The Committee filed these amendments after discussions with RAD in October 2012 about additional accounting errors it had discovered. *See* Referral at 4-5. Although the Committee had filed previous amendments to each of these reports, *see* chart *supra*, those amendments had not previously triggered an RFAI.

1 Committee filed a FEC Form 99 explaining that amendments to the original reports were
2 necessary due to human error in processing and recording large numbers of checks that were
3 issued to individuals providing the Committee with contract labor services ranging from office
4 maintenance to canvassing. *Id.* Specifically, the Committee explains that after the treasurer
5 signed a physical check, its procedure was to file a copy of the check until needed for entry into
6 FEC reports. The Committee asserts that "deviations" from this procedure "led to activity
7 occurring without our immediate knowledge and therefore incurred delayed updates to our
8 records." *Id.* The Committee acknowledged specific omitted disbursements, including in-kind
9 contributions totaling \$5,780.59, automatic debits to the account, including six bank fees totaling
10 \$1,130, large wire transfers including an advertising payment in the amount of \$39,000, wire
11 payments to Rindy Miller Media for \$250,000 and to Latimundo for \$405,000. *Id.* Further, the
12 Committee asserted that some of the errors resulted when it had to restore its financial files and
13 FEC file to a new computer after encountering software issues while uploading an amendment.
14 *Id.*

15 RAD referred the Committee to OGC for amending its 2012 12 Day Pre-Primary and
16 2012 July Quarterly Reports to disclose a total of \$500,000 in additional receipts and a total of
17 \$844,128.55 in additional disbursements during the 2012 election cycle, which is an aggregate
18 increase in activity of \$1,344,128.55. Upon receipt of the Referral, OGC notified the Committee
19 about this matter on September 30, 2013. Letter from Jeff S. Jordan, Supervisory Att'y, CELA,
20 FEC to Nadya Alameel, Treasurer of the Committee (Sep. 30, 2013); *see also Agency Procedure*
21 *for Notice to Respondents in Non-Complaint Generated Matters*, 74 Fed. Reg. 38,617 (Aug. 4,
22 2009).

1 In response, the Committee states that it regrets that its reports required correction, but
2 maintains that the Commission should not proceed with further enforcement action. Resp. at 2.
3 The Committee states that the first-time candidate "heavily self-funded his campaign, so the
4 significant changes to the receipts disclosed on the Committee's reports consist mainly of his
5 own contributions." *Id.* The Committee also notes that the "bulk of the disbursements added to
6 the Committee's reports were for two large media purchases. The rest included standard
7 campaign expenses, such as payments for contract labor and bank fees." *Id.* Further, the
8 Committee asserts that it repeatedly conferred with Commission staff to make the necessary
9 amendments to the reports, and cites to the Referral, which details those conversations. *Id.* It
10 reiterates the explanations made in the FEC Form 99, which noted that the amendments stemmed
11 from the hiring of a large number of campaign contractors, resulting in a large number of checks
12 to be cut and tabulated. *Id.* It also maintains that the extremely large number of transactions
13 over a short period of time, coupled with human error, further contributed to omissions from the
14 Committee's original reports. *Id.* The Committee states that it awaits termination, and to the
15 extent that any further action is necessary in this matter, it requests that the Commission resolve
16 the matter through Alternative Dispute Resolution. *Id.*

17 III. LEGAL ANALYSIS

18 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee
19 treasurers to file reports of receipts and disbursements in accordance with the provisions of
20 2 U.S.C. § 434. 2 U.S.C. § 434(a)(1); 11 C.F.R. § 104.1(a). These reports must include, *inter*
21 *alia*, the total amount of receipts and disbursements, including the appropriate itemizations,
22 where required. 2 U.S.C. § 434(b); 11 C.F.R. § 104.3.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100